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FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Jun 07, 2021

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

SANTIAGO CONTRERAS OROZCO,

Defendant.

No. 2:11-CR-00150-SAB-1

**ORDER GRANTING
DEFENDANT'S MOTION TO
REDUCE SENTENCE**

****U.S. MARSHALS SERVICE
ACTION REQUIRED****

Before the Court is Defendant's Motion to Reduce Sentence Under § 3582(c)(1)(A), ECF No. 321. The motion was heard without oral argument.¹ Defendant is represented by John B. McEntire. The United States is represented by Earl Hicks.

On April 29, 2021, the Court sentenced Defendant to 10 years for Count 1, Manufacture of More than 1000 Marijuana Plants and 5 years for Count 2, Use or Carry a Firearm During Trafficking Crime. ECF No. 318. On the same day, the Court referred this matter to the Federal Defenders of Eastern District of

¹ The Court has determined that oral argument is not necessary. *See* LR7.1.

**ORDER GRANTING DEFENDANT'S MOTION TO REDUCE
SENTENCE ~ 1**

1 Washington and Idaho to review Defendant's file and file, if appropriate, a Motion
 2 for Compassionate Release. ECF No. 316.

3 Defendant now moves, pursuant to the First Step Act ("FSA"), for a
 4 reduction in his sentence based on "extraordinary and compelling reasons." The
 5 United States neither recommends nor objects to Defendant's motion. ECF No.
 6 322. After reviewing the record and the parties' briefing, the Court grants
 7 Defendant's Motion.

8 **The First Step Act**

9 "A judgment of conviction that includes a sentence of imprisonment
 10 constitutes a final judgment and may not be modified by a district court except in
 11 limited circumstances." *Dillon v. United States*, 560 U.S. 817, 824 (2010) (internal
 12 alterations omitted). Compassionate release provides an exception to this general
 13 rule in extraordinary cases. See 18 U.S.C. § 3582(c). Prior to the enactment of the
 14 First Step Act in December 2018, only the Bureau of Prisons (BOP) could raise the
 15 issue of compassionate release. The First Step Act modified 18 U.S.C. §
 16 3582(c)(1)(A), however, with the intent of "increasing the use and transparency of
 17 compassionate release." Pub. L. No. 115-391, 132 Stat. 5194, at 5239. Section
 18 3582(c)(1)(A) now allows a federal prisoner to seek compassionate release after
 19 exhausting all administrative remedies with the BOP.

20 Section 3582(c)(1)(A) permits a court to reduce the term of imprisonment
 21 after considering the factors set forth in section 3553(a), if it finds that
 22 "extraordinary and compelling reasons warrant such a reduction" and "that such a
 23 reduction is consistent with applicable policy statements issued by the Sentencing
 24 Commission." 18 U.S.C. § 3583(c)(1)(A). Congress has not provided a statutory
 25 definition of "extraordinary and compelling reasons." *United States v. Aruda*, 993
 26 F.3d 797, 800 (9th Cir. 2021) (per curiam). Instead, Congress instructed the United
 27 States Sentencing Commission that "in promulgating general policy statements
 28 regarding the sentencing modification provisions in section 3582(c)(1)(A) of title

**ORDER GRANTING DEFENDANT'S MOTION TO REDUCE
 SENTENCE ~ 2**

1 18, [it] shall describe what should be considered extraordinary and compelling
 2 reasons for sentence reduction, including the criteria to be applied and a list of
 3 specific examples.” *Id.* (citing 28 U.S.C. §§ 944(t); 944(a)(2)(C)). The Sentencing
 4 Commission’s policy statement regarding reductions in a term of imprisonment is
 5 found at U.S.S.G. 1B1.13. This policy statement, however, has not been updated
 6 since the First Step Act amended § 3582(c)(1)(A). *Id.*

7 Consequently, the current version of U.S.S.G § 1B1.3 is not an applicable
 8 statement for 18 U.S.C. § 3582(c)(1)(A) motions filed by a defendant. *Id.* at 801.
 9 Because there is no “applicable” policy statement governing compassionate-release
 10 motions filed by defendants under the recently amended § 3582(c)(1)(A), this
 11 Court is free to consider any extraordinary and compelling reasons for release that
 12 Defendant may raise. *Id.* (citing *United States v. McCoy*, 981 F.3d 271, 281-84 (4th
 13 Cir. 2020)).

14 Given the unique facts presented by this case, the Court finds extraordinary
 15 and compelling reasons exist to grant Defendant’s motion to reduce his sentence.²

16 **1. Changing Legal Landscape**

17 When Defendant was sentenced in April 2021, he no longer faced a 25-year
 18 mandatory minimum sentence. Even so, the mandatory minimum sentence of 15
 19 years that Defendant was subject to is unusually long by today’s standards. Since
 20 Defendant was prosecuted over ten years ago, society’s attitude toward marijuana
 21 has drastically changed.

22 **2. Ten Years Custody**

23 Defendant has served almost 10 years in custody for his two convictions.
 24 During that time, he has not had any disciplinary actions. Defendant suffers from
 25 serious mental health disorders and received treatment during his incarceration.
 26 Further incarceration is not necessary and would be detrimental to Defendant’s

28 ² The United States has waived any challenge to the exhaustion requirement.

health.

3. 18 U.S.C. § 3553 factors

The nature and circumstances of the crime, the need to avoid unwarranted sentencing disparities, and the history and characteristics of Defendant all indicate that an amended sentence of time served is sufficient but not greater than necessary to meet the goals and purpose of the criminal justice system. The Court is confident that Defendant has been adequately deterred and the public need not be further protected from him. Also, Defendant has tremendous support from his family and has presented the Court with a sufficient release plan.

Conclusion

Defendant has served close to ten years in federal custody. The Court finds this is sufficient to reflect the seriousness of the offense, promote respect for the law, provide just punishment for the offense and to provide an adequate deterrence to future criminal activity. As such, an Amended Judgment will be entered indicating a sentence of time served, five years supervised release, \$100 special assessment for each count, and the fine is waived, with the same conditions of supervised release that were imposed at the April 29, 2021 sentencing.

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ORDER GRANTING DEFENDANT'S MOTION TO REDUCE SENTENCE ~4

1 Accordingly, **IT IS HEREBY ORDERED:**

2 1. Defendant's Motion to Reduce Sentence Under § 3582(c)(1)(A), ECF
3 No. 321, is **GRANTED**.

4 2. An Amended Judgment will be entered forthwith.

5 3. The United States Marshals Services is directed to release Defendant
6 forthwith.

7 **IT IS SO ORDERED.** The District Court Executive is hereby directed to
8 file this Order and provide copies to counsel.

9 **DATED** this 7th day of June 2021.



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12 Stanley A. Bastian

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14 Stanley A. Bastian
15 Chief United States District Judge
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**ORDER GRANTING DEFENDANT'S MOTION TO REDUCE
SENTENCE ~ 5**